

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INLINE CONNECTION CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-866 (JJF)
)	
VERIZON INTERNET SERVICES, INC., et al.,)	
)	
Defendants.)	
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BROADBAND TECHNOLOGY INNOVATIONS,)	
LLC, and PIE SQUARED LLC,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 06-291 (JJF)
)	
VERIZON INTERNET SERVICES, INC., et al.,)	
)	
Defendants.)	
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MOTION TO CONSOLIDATE

Plaintiffs hereby move for an order in the form attached consolidating *Broadband Technology Innovations, LLC, et al., v. Verizon Internet Services, Inc., et al.*, C.A. No. 06-291-JJF (“the *Broadband* case”) with *Inline Connection Corp. v. Verizon Internet Services, Inc., et al.*, C.A. No. 05-866-JJF (“the *Inline* case”) and extending the stay issued in *Inline* (D.I. 92, filed April 13, 2006) to the *Broadband* case. The grounds for this motion are set forth in Plaintiffs’ Statement Regarding Proposed Scheduling Order being filed today to respond to the Court’s request of December 5, 2006 that the parties submit a proposed scheduling order in the *Broadband* case.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Julia Heaney

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Corporation and Plaintiffs Broadband Technology
Innovations, LLC and Pie Squared LLC*

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Dated: December 20, 2006
549578

RULE 7.1.1. CERTIFICATION

I hereby certify that counsel for defendants has been consulted and he has refused to agree to consolidation of the *Broadband* and *Inline* cases and extension of the stay in the *Inline* matter to the *Broadband* case.

Dated: December 20, 2006 /s/ *Julia Heaney*

Julia Heaney (#3052)

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VERIZON INTERNET SERVICES, INC., et al.,)	
)	
Defendants.)	
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[PROPOSED] ORDER

WHEREAS, the Court granted in part plaintiff's motion to stay in the case captioned *Inline Connection Corp. v. Verizon Internet Services, Inc., et al.*, C.A. No. 05-866-JJF on April 13, 2006 (D.I. 92) pending the outcome in two related cases, C.A. Nos. 02-272-MPT and 02-477-MPT ("the AOL/Earthlink cases"), on the ground that the same patents are at issue in all cases and that determination of claim construction and infringement in the AOL/Earthlink cases may help determine infringement in C.A. No. 05-866-JJF; and

WHEREAS, the Court in the April 13, 2006 Memorandum Order (D.I. 92, C.A. No. 05-866-JJF) also permitted the parties to proceed with discovery as to defendants'

unenforceability and invalidity defenses to prevent the possible loss of "evidence and witnesses" concerning events of "close to twenty years ago"; and

WHEREAS, plaintiffs have represented to the Court that the Complaint in the case captioned *Broadband Technology Innovations LLC et al. v. Verizon Internet Services, Inc., et al.*, C.A. No. 06-291-JJF, is substantively identical to the Complaint in C.A. No. 05-866-JJF (with the exception of a related, recently issued fifth patent), and that the case C.A. No. 06-291-JJF was brought to address the affirmative defense of lack of standing asserted by defendants in C.A. No. 05-866-JJF and to ensure that the Court may determine the substantive infringement claims against defendants even if a court were ultimately to determine that plaintiff's original Complaint in C.A. No. 05-866-JJF lacked subject matter jurisdiction (D.I. 3, C.A. No. 06-291-JJF); and

WHEREAS, plaintiffs have also requested consolidation of C.A. No. 05-866-JJF with C.A. No. 06-291-JJF subject to the existing orders in C.A. No. 05-866-JJF on discovery and staying the action, so that all proper parties will be represented in a single action for patent infringement;

IT IS HEREBY ORDERED THAT, for the reasons set forth in the April 13, 2006 Memorandum Order (D.I. 92, C.A. No. 05-866-JJF) and in the interests of efficiency, the case C.A. No. 06-291-JJF is stayed on the same terms as C.A. No. 05-866-JJF and also consolidated with C.A. No. 05-866-JJF.

So Ordered this ____ day of _____, 200__.

The Honorable Joseph J. Farnan

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on December 20, 2006, I electronically filed the foregoing with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Jeffrey B. Bove
Connolly Bove Lodge & Hutz LLP

and I further certify that I caused copies to be served upon the following in the manner indicated:

BY HAND AND ELECTRONIC MAIL

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/s/ Julia Heaney
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